

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

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)	
)	Civ. No.
)	
WAYNE FARMS, LLC)	COMPLAINT TO COMPEL
)	AGENCY ACTION UNDER
Plaintiff,)	28 U.S.C § 1361 AND 5 U.S.C.
)	§§ 555(b), 701(1), AND FOR
v.)	A WRIT OF MANDAMUS TO
)	COMPEL DEFENDANT TO TRANSFER
ANTONY J. BLINKEN, SECRETARY OF)	IMMIGRANT VISA APPLICATIONS TO
STATE, U.S. DEPARTMENT OF STATE)	U.S. EMBASSY AND ADJUDICATE
)	
)	
)	
)	
Defendant.)	
)	
)	

COMPLAINT FOR WRIT OF MANDAMUS

To the Honorable Judges of Said Court:

Plaintiff, Wayne Farms, LLC, through undersigned counsel, alleges as follows:

I. INTRODUCTION

1. This is a civil action brought pursuant to 28 U.S.C. § 1361, 8 U.S.C. § 1329, and 28 U.S.C. § 1331, to redress the deprivation of rights, privileges and immunities secured to Plaintiff to compel Defendant to perform a duty Defendant owed to Plaintiff.
2. This action is brought to compel Defendant and those acting under them to take action on Immigrant Visa Applications, for Plaintiff's foreign national applicants to become

Lawful Permanent Residents of the United States and become Plaintiff's employees.

3. Plaintiff requests that this Court issue injunctive relief and a writ in the nature of mandamus compelling National Visa Center to transfer the Immigrant Visa Applications of the Plaintiff's foreign national employees to an appropriate U.S. Embassy and the U.S. Embassy to adjudicate the applications under 8 U.S.C §1202.

II. JURISDICTION

4. This Court has general federal question jurisdiction over this action under 5 U.S.C. §§ 555(b) and 706(a), 28 U.S.C. § 1361, and 28 U.S.C. § 1331(a). Jurisdiction is also conferred by 5 U.S.C. § 704.
5. This Court also has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 and F.R.C.P. 57 and 65.

III. VENUE

6. Venue in the Northern District of Georgia is proper pursuant to 28 U.S.C. §1391(e). Defendant is Officer of the United States acting in his official capacity, and the U.S. Attorney General's Office, the U.S. Department of State ("DOS"), the National Visa Center ("NVC") and U.S. Embassies are agencies of the United States. Further, Plaintiff is a resident of Hall County where its headquarter and a place of principal business are located. Therefore, the Plaintiff resides in this judicial district.

IV. EXHAUSTION

7. There are no administrative remedies available for Plaintiff to exhaust.

V. PARTIES

Plaintiff

8. Plaintiff, Wayne Farms, LLC, is a resident of Hall County, Georgia and has foreign national applicants who are applicants for an immigrant visa to become permanent residents and become Plaintiff's employees upon their arrival to the U.S.

Defendant

9. Defendant Antony J. Blinken, is the Secretary of State, which operates the National Visa Center ("NVC") and the U.S. Embassies. Both NVC and the U.S. Embassies are fee-for-service entities, which are responsible for pre-processing and processing of visa applications, respectively. This action is brought against him in his official capacity.

VI. FACTUAL ALLEGAIONS

10. Plaintiff, Wayne Farms, LLC, is a Georgia corporation, and a resident of Hall County. Plaintiff is a poultry processing company and is in desperate need of its foreign worker to arrive in the U.S. as a permanent resident to join its work force as a full-time, permanent basis. Plaintiff has been experiencing a high turnover rate and labor shortage, and has been hiring foreign national applicants. *See Exhibit A.*
11. Plaintiff's foreign national applicants in this complaint are citizens of Vietnam and Republic of Korea, and are beneficiaries of approved and reaffirmed Forms I-140 visa petitions which were filed by Plaintiff with U.S. citizenship and Immigration Services ("USCIS"). *See Exhibit B.*
12. After 8 months or longer of wait, Plaintiff's foreign national applicants have not received

notices of an interview at U.S. Embassies. See Exhibit B.

13. The Plaintiff has at all times met and continues to meet the requirements necessary for its foreign national applicants to have their visa applications to be processed by DOS.
14. Plaintiff's foreign national applicants here fit into preference category EB3 from Vietnam and Republic of Korea as their priority dates are well before the cutoff date shown in the May 2023 Visa Bulletin. Therefore, visa numbers are immediately available. See Exhibit C.
15. Plaintiff wishes for its foreign national applicants to be able to come to the U.S. as soon as possible and join its workforce due to its continuing shortage of workers.

COUNT 1

16. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 15 above.
17. Plaintiff is eligible for immediate adjudication of its foreign national applicants' visa applications.
18. Plaintiff's foreign national applicants are admissible to the United States as lawful permanent residents.
19. Plaintiff has suffered and will continue to suffer significant and irreparable harm because of the Defendant's policies, procedures, acts and failures to act as described herein. Plaintiff desperately needs its foreign national applicants to be admitted to the United States as lawful permanent residents and join its work force on a full-time, permanent basis as soon as possible.
20. Defendant has violated Plaintiff's statutory right to apply for benefits which Congress has provided under the INA, depriving Plaintiff's applicants of the opportunity to pursue adjustment of status to lawful permanent residence and live lawfully in the United States

under 8 USC § 1255.

Count 2

21. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 20 above.
22. Plaintiff has suffered a legal wrong or has been “adversely affected or aggrieved” by agency action. 5 U.S.C. § 702. Plaintiff is a person aggrieved by agency action, for which there is no other adequate remedy in a court. 5 U.S.C. § 704.

Count 3

23. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 22 above.
24. Defendant owes Plaintiff a clear and certain duty to adjudicate Plaintiff’s foreign national worker’s Application.
25. Plaintiff has no other adequate remedy.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court:

1. Assume Jurisdiction over this action;
2. Issue a writ of mandamus compelling Defendant to immediately adjudicate the pending Application;
3. Award Plaintiff reasonable costs and attorney’s fees under the Equal Access to Justice Act; and
4. Award such further relief as the Court deems just or appropriate.

RESPECTFULLY SUBMITTED this 31st day of May, 2023.

/s/

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VERIFICATION

I, Myung-Sun Caitlyn Goldstein, hereby verify that, to the best of my knowledge and belief, the matters stated in the Complaint to Compel Agency Action and for a Writ of Mandamus to Compel Defendant's Agencies to transfer immigrant visa applications to U.S. Embassies and adjudicate are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Suwanee, Georgia on this 31st day of May, 2023.

/s/

Myung-Sun Caitlyn Goldstein
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Counsel for Plaintiff

CERTIFICATE OF SERVICE

This is to certify that I electronically filed the foregoing **COMPLAINT FOR MANDAMUS RELIEF** and its accompanying Exhibits with the Clerk of Court using the CM/ECF system. This system will automatically send email notification of such filing to all below Defendant who are registered with this system. In addition, in compliance with local rules, this initial Complaint and the accompanying Exhibits and summons will also be served by First Class Certified Mail, postage pre-paid, on:

Ur M. Jaddou, Director
c/o
Office of the Chief Counsel
20 Massachusetts Avenue, NW
Room 4210
Washington, D.C. 20529

Kurt R. Erskine, Acting USA
Civil Process Clerk
Northern District of Georgia
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Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Certified this 31st day of May, 2023,

/s/
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